IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.8042 OF 2004

Between:

P. Nirmal Praveen, S/o.Late Chandra Sekhar,

R/o. 408/B, Siddartha Apartments,

Ramanthapur, Hyderabad.

…PETITIONER

And

The Regional Passport Officer,

Passport Office, Secunderabad.

…RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order or direction or Writ more particularly one in the nature of writ of Mandamus declaring the action of the respondent in not entertaining application for change of date of birth in the passport from 1.5.1975 to 1.5.1977 as illegal, arbitrary and contrary to the Passport Act and the Rules framed thereunder and unconstitutional and consequently direct the respondents to correct the date of birth in the passport from 1.5.1975 to 1.5.1977.

Counsel for the Petitioner: MR.SRINIVASARAO BODDULURI

Counsel for the Respondent: SRI A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8042 OF 2004

ORDER:

The petitioner obtained passport on 23.11.1988 in which his date of birth was shown as 1.5.1975. The petitioner claims that his actual date of birth is 1.5.1977 and he was born at Railway Kodur in Kadapa District. He appeared for Matriculation Examination conducted by the Board of Matriculation Examination, Tamil Nadu in 1991 and passed the examination in First Class. In the certificate issued by the Board of Matriculation Examination, Tamil Nadu, his date of birth is shown as 1.5.1975 which was the basis for recording date of birth as such. The petitioner obtained M.Sc., Computer Science Degree from New Hampshire University, U.S.A. So as to pursue further studies, he alleges that he applied to other institutions, which agreed to give admission with scholarship and fee waiver. However, those

institutions allegedly refused to accept the Matriculation Certificate of petitioner. Therefore, petitioner obtained birth certificate from Gram Panchayat, Railway Kodur, when he came to known that his actual date of birth is 1.5.1977. As there is contradiction between the Matriculation Certificate and the Birth Certificate issued by the Gram Panchayat with regard to the date of birth, he wanted to approach the respondent for correction of date of birth. He was informed by the staff of the respondent that no application for correction of date of birth is accepted and therefore, he filed the present Writ Petition seeking a direction to respondent to correct the date of birth in the passport as 1.5.1977.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper

declaration from the civil court.

In this case, the petitioner does not dispute that when the passport was obtained, the date of birth was shown as 1.5.1975 based on the Matriculation Certificate issued by the Board of Matriculation Examination, Tamil Nadu. If the petitioner seeks alteration of the date of birth, he has to seek necessary declaration from the Civil Court. Therefore, the petitioner is given liberty to approach the Civil Court and obtain appropriate declaration, and then make application to the respondent who shall consider the request as per the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs.

The Writ Petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO, J)

2.9.2004

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To

1.The Regional Passport Officer, The Regional Passport Office

Near Clock Tower,

Secunderabad

2. 2 CD copies.